

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.4051 of 2012

ORDER:

This civil revision petition under Article 227 of the Constitution of India by the unsuccessful petitioner/plaintiff is directed against the orders dated 07.07.2012 of the learned Junior Civil Judge, Medchal of Ranga Reddy District passed in IA.no.2512 of 2008 in OS.no.773 of 2006 filed under Order I Rule 10 read with Section 151 of the Code of Civil Procedure for permission to implead the proposed respondents 2 to 4 as defendants 2 to 4 they being necessary parties to the suit.

2. I have heard the submissions of the learned counsel for the revision petitioner/plaintiff ('the plaintiff', for short). Though respondents are served, none appears. I have perused the material record.

3. The introductory facts, in brief, are as follows:

3.1 The plaintiff brought the suit against the sole defendant for the relief of recovery of possession of plot bearing no.43/B admeasuring 140 Square Yards covered by Sy.no.1 of Gundlapochampally village more fully described in the schedule annexed to the plaint. The sole defendant having entered appearance has stated in his written statement that he is not personally carrying out any construction work but, the Gram Panchayat is raising the constructions with the funds sanctioned by the Collector, Ranga Reddy District. Having regard to the said defence, the plaintiff had filed the instant petition for permission to add the proposed respondents 2 to 4 as party defendats to the suit. The afore-said application was resisted; the Secretary of the Gram Panchayat *inter alia* contended that the plaint allegations are false and that he is not aware of some of the plaint allegations personally and that the application for impleadment without issuing a prior statutory notice to

the Gram Panchayat is not maintainable and that the suit against the Collector is not maintainable for not issuing a statutory notice as required under Section 80 of the Code and that the Panchayat has constructed a community Hall in the year 2004 but, the present suit is filed in the year 2006 and that the relief that is being sought for against the proposed respondents is barred by law of limitation and that the proposed respondents/defendants in the facts and circumstances are not necessary parties.

3.2 On merits and by the order impugned, the trial Court had dismissed the petition on the ground that the petition is filed belatedly after lapse of four years. Therefore, the aggrieved plaintiff had filed this revision.

4. It is submitted on behalf of the plaintiff that in the circumstances stated by the sole defendant in his defence that the constructions were made by the Gram Panchayat with the funds that were sanctioned by the Collector, Ranga Reddy District, it has become necessary to implead the proposed respondents as necessary parties to the suit as their presence is necessary for effective adjudication and that the trial court had dismissed the application merely on the ground of delay and that, therefore, the order impugned is liable to be set aside.

5. At the hearing, it is noticed that the application for impleadment did not contain a prayer for all consequential amendments. In the light of the said fact, it is necessary to refer to Rule 28 of the Civil Rules of Practice, which reads as under:

An application for amendment made under Order I, Rule 10, Order VI, Rule 17, or Order XXII of the Code, shall also contain a prayer for all consequential amendments.

It is to be noted that when the plaintiff files an application for impleadment of third parties as party defendants to the suit, the plaintiff, as per practice and law, is required to state in the plaint the averments, which necessitated the plaintiff to implead the proposed defendants and the plaintiff's entitlement to

the relief claimed in the suit against the proposed defendants, by adding to the original plaint a paragraph or a sub-paragraph. Mere seeking addition of parties as defendants without seeking consequential amendments would be of no avail and such a course is also impermissible under law. Since the plaintiff's application, which does not contain the consequential amendments as required under law and facts, is defective this Court is of the considered view that while maintaining the order of the trial court, the plaintiff can be given liberty to file a fresh application for the same relief showing all the consequential amendments in accordance with law and the Rules under the Civil Rules of Practice.

6. Accordingly, the Civil Revision Petition is disposed of confirming the orders of the trial Court, however, giving liberty to the plaintiff to file a fresh application for impleadment showing all the consequential amendments as required under facts and in law.

No order as to costs.

Miscellaneous petitions, pending if any, in the CRP shall stand closed.

M. SEETHARAMA MURTI, J

01.07.2016

Vjl